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In re Application of
Weinberg et al.
Application No.: 09/622,816
Int. App. No.: PCT/US99/03805
Int. Filing Date: 22 February 1999
Priority Date: 24 February 1998
Atty. Docket No.: 27611 35364
For: Lipid Emulsions In The Treatment
Of Systemic Poisoning

DECISION

This decision is in response to the "Response To Notification Of Missing Requirements... And Request To Rescind Notification Of Abandonment" filed on 17 July 2001.

BACKGROUND

This international application was filed on 22 February 1999, and claimed priority of an earlier application filed on 24 February 1998. The United States was designated. A Demand electing the United States was filed on 13 September 1999, which was prior to the elapse of 19 months from the priority date. Accordingly, the period to pay the basic national fee in the United States expired on 24 August 2000.

On 23 August 2000, applicants filed, *inter alia*, the basic national fee.

On 18 September 2000, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that this application was entitled to a date of 23 August 2000 under 35 U.S.C. 371 and 102(e).

On 02 May 2001, a Communication was mailed, vacating the Notification of Acceptance (Form PCT/DO/EO/903) of 18 September 2000.

On 09 May 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an executed oath or declaration of the inventors was mailed to applicants.

On 04 June 2001, a Notification of Abandonment was mailed to applicants, indicating that the international application had become abandoned with respect to the United States because "Applicant has failed to respond to the Missing Requirements (Form PCT/DO/EO/905), mailed 18 Sept 2000 within the time period set therein."

Applicants filed the instant "Response... on 17 July 2001, which requests that the holding of abandonment be withdrawn and which was accompanied by, *inter alia*, a declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

Review of the record reveals that applicants timely filed the instant "Response to Notification of Missing Requirements" within the period to respond to the Form PCT/DO/EO/905 mailed on 09 May 2001, extended pursuant to 37 CFR 1.136(a). As such, the Notification of Abandonment mailed on 04 June 2001 was improper and is hereby **VACATED**.

A review of the declaration reveals that it is in compliance with 37 CFR 1.497(a) and (b). As such, it satisfies the requirements of 35 U.S.C. 371(c)(4) as well as the requirement of the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 09 May 2001.

DECISION

Applicants' request is **GRANTED**.

This application is being returned to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903). The date of this application under 35 U.S.C. 371 is **17 July 2001**.



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